

1
2
3
4
BEFORE THE
BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

5 In the Matter of the Statement of Issues
6 Against:

Case No. PT-2008-1629

7 KRIS JOSEPH MUNOZ
8 1113 S. Pinkham Street
9 Visalia, CA 93292

Applicant for Psychiatric Technician License

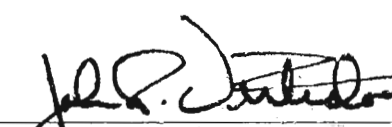
10 Applicant/Respondent.
11

12 DECISION
13

14 The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of
15 Vocational Nursing and Psychiatric Technicians as the final Decision in the above-entitled matter.
16

17
18 This Decision shall become effective on July 7, 2010.

19 IT IS SO ORDERED this 7th day of June, 2010.
20

21
22
23 
24 John P. Vertido, L.V.N.
25 President
26
27
28

1 EDMUND G. BROWN JR.
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KENT D. HARRIS
Deputy Attorney General
4 State Bar No. 144804
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-7859
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

13 **KRIS JOSEPH MUNOZ, aka**
KRIS MUNOZ
14 **1113 S. Pinkham Street Visalia, CA 93292**

15 Applicant/Respondent.

Case No. PT-2008-1629

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) is the Executive Officer of the
21 Board of Vocational Nursing and Psychiatric Technicians. She brought this action solely in her
22 official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of
23 the State of California, by Kent D. Harris, Deputy Attorney General.

24 2. Respondent Kris Joseph Munoz (Respondent) is representing himself in this
25 proceeding and has chosen not to exercise his right to be represented by counsel.
26
27
28

3. On or about December 12, 2008, Respondent filed an application dated October 29, 2008, with the Board of Vocational Nursing and Psychiatric Technicians to obtain a psychiatric Technician License.

JURISDICTION

4. Statement of Issues No. PT-2008-1629 was filed before the Board of Vocational Nursing and Psychiatric Technicians (Board) , Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on April 8, 2010. A copy of Statement of Issues No. PT-2008-1629 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. PT-2008-1629. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. PT-2008-1629.

9. Respondent agrees that his Psychiatric Technician license application is subject to denial and in exchange for the granting of said license, he agrees to be bound by the Board of

1 Vocational Nursing and Psychiatric Technicians (Board) 's imposition of discipline as set forth in
2 the Disciplinary Order below.

3 CONTINGENCY

4 10. This stipulation shall be subject to approval by the Board of Vocational Nursing and
5 Psychiatric Technicians. Respondent understands and agrees that counsel for Complainant and
6 the staff of the Board of Vocational Nursing and Psychiatric Technicians may communicate
7 directly with the Board regarding this stipulation and settlement, without notice to or participation
8 by Respondent. By signing the stipulation, Respondent understands and agrees that he may not
9 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers
10 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the
11 Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
12 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
13 be disqualified from further action by having considered this matter.

14 11. The parties understand and agree that electronic or facsimile copies of this Stipulated
15 Settlement and Disciplinary Order, including electronic or facsimile signatures thereto, shall have
16 the same force and effect as the originals.

17 12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
18 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
19 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
20 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
21 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
22 writing executed by an authorized representative of each of the parties.

23 13. In consideration of the foregoing admissions and stipulations, the parties agree that
24 the Board may, without further notice or formal proceeding, issue and enter the following
25 Disciplinary Order:

26 DISCIPLINARY ORDER

27 IT IS HEREBY ORDERED that Respondent Kris Joseph Munoz's application for
28 Psychiatric Technician License will be approved and the license will be issued and automatically

1 revoked. The revocation will be stayed and the Respondent placed on two (2) years probation on
2 the following terms and conditions.

3 1. **OBEY ALL LAWS.** Respondent shall obey all federal, state and local laws,
4 including all statutes and regulations governing the license. Respondent shall submit, in writing, a
5 full and detailed account of any and all violations of the law, including alleged violations, to the
6 Board within five (5) days of occurrence.

7 To ensure compliance with this condition, respondent shall submit fingerprints through the
8 Department of Justice and Federal Bureau of Investigation within thirty (30) days of the effective
9 date of the decision, unless the Board determines that fingerprints were previously submitted by
10 the respondent to the Board.

11 Respondent shall also submit to the Board a recent 2" x 2" photograph of himself within
12 thirty (30) days of the effective date of the decision.

13 If respondent is under a criminal court order, including probation or parole, and the order is
14 violated, it shall be deemed a violation of these probation conditions.

15 2. **COMPLIANCE WITH PROBATION PROGRAM.** Respondent shall fully
16 comply with the conditions of probation established by the Board and shall cooperate with
17 representatives of the Board in its monitoring and investigation of the respondent's compliance
18 with the Probation Program.

19 Upon successful completion of probation, the respondent's license will be fully restored.

20 3. **SUBMIT WRITTEN REPORTS.** Respondent shall submit or cause to be
21 submitted, under penalty of perjury, any written reports, declarations and verification of actions
22 as required by the Board or its representatives. These reports or declarations shall contain
23 statements relative to respondent's compliance with all the conditions of the Board's Program.
24 Respondent shall immediately execute all release of information forms as may be required by the
25 Board or its representatives.

26 In the first report, Respondent shall provide a list of all states and territories where he has
27 ever been licensed as a vocational/practical nurse, psychiatric technician, or registered nurse.
28 Respondent shall provide information regarding the status of each license and any change in

license status during the period of probation. Respondent shall inform the Board if he applies for or obtains a new nursing or psychiatric technician license during the period of probation.

Respondent shall provide a copy of the Board's decision to the regulatory agency in every state and territory in which he has applied for or holds a vocational/practical nurse, psychiatric technician and/or registered nurse license.

4. NOTIFICATION OF ADDRESS AND TELEPHONE NUMBER CHANGE(S).

Respondent shall notify the Board, in writing, within five (5) days of any change in address or telephone number(s).

Respondent's failure to claim mail sent by the Board may be deemed a violation of these probation conditions.

5. NOTIFICATION OF RESIDENCY OR PRACTICE OUTSIDE OF STATE.

Respondent shall notify the Board, in writing, within five (5) days, if he leaves California to reside or practice in another state. Periods of residency or practice outside of California shall not apply toward a reduction of this probation time period. If Respondent resides or practices outside of California, the period of probation shall be automatically extended for the same time period he resides or practices outside of California. The respondent shall provide written notice to the Board within five (5) days of any change of residency or practice.

Respondent shall notify the Board, in writing, within five (5) days, upon his return to California.

6. MEETINGS WITH BOARD REPRESENTATIVE(S). Respondent shall appear in person at meetings as directed by the Board or its designated representatives.

7. NOTIFICATION TO EMPLOYER(S). When currently employed or applying for employment in any capacity in any health care profession, Respondent shall notify his employer of the probationary status of Respondent's license. This notification to the Respondent's current health care employer shall occur no later than the effective date of the Decision. The respondent shall notify any prospective health care employer of his probationary status with the Board prior to accepting such employment. At a minimum, this notification shall be accomplished by providing the employer or prospective employer with a copy of the Board's Accusation and

1 Disciplinary Decision.

2 The Health Care Profession includes, but is not limited to: Licensed Vocational Nurse,
3 Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency Medical
4 Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary technical
5 health care positions.

6 Respondent shall cause each health care employer to submit to the Board all performance
7 evaluations and any other employment related reports as required by the Board. Respondent shall
8 notify the Board, in writing, of any difficulty in securing employer reports within five (5) days of
9 such an event.

10 Respondent shall notify the Board, in writing, within five (5) days of any change in
11 employment status. Respondent shall notify the Board, in writing, if he is terminated or
12 separated, regardless of cause, from any nursing or health care related employment with a full
13 explanation of the circumstances surrounding the termination or separation.

14 8. **EMPLOYMENT REQUIREMENTS AND LIMITATIONS.** Respondent shall
15 work in his licensed capacity in the state of California. This practice shall consist of no less than
16 six (6) continuous months and of no less than twenty (20) hours per week.

17 Respondent shall not work for a nurses' registry or in any private duty position, a temporary
18 nurse placement agency, as a faculty member in an accredited or approved school of nursing, or
19 as an instructor in a Board approved continuing education course except as approved, in writing,
20 by the Board. Respondent shall work only on a regularly assigned, identified and predetermined
21 work site(s) and shall not work in a float capacity except as approved, in writing, by the Board.

22 9. **SUPERVISION REQUIREMENTS.** Before commencing or continuing
23 employment in any health care profession, Respondent shall obtain approval from the Board of
24 the supervision provided to the respondent while employed.

25 Respondent shall not function as a charge nurse (i.e., work in any healthcare setting as the
26 person who oversees or directs licensed vocational nurses, psychiatric technicians, certified
27 nursing assistants or unlicensed assistive personnel) or supervising psychiatric technician during
28 the period of probation except as approved, in writing, by the Board.

1 10. **COMPLETION OF EDUCATIONAL COURSE(S).** Respondent, at his own
2 expense, shall enroll and successfully complete a course(s) substantially related to the violation(s)
3 no later than the end of the first year of probation.

4 The coursework shall be in addition to that required for license renewal. The Board shall
5 notify the respondent of the course content and number of contact hours required. Within thirty
6 (30) days of the Board's written notification of assigned coursework, Respondent shall submit a
7 written plan to comply with this requirement. The Board shall approve such plan prior to
8 enrollment in any course of study.

9 Upon successful completion of the course, respondent shall submit "original" completion
10 certificates to the Board within thirty (30) days of course completion.

11 11. **MAINTENANCE OF VALID LICENSE.** Respondent shall, at all times, maintain
12 an active current license with the Board including any period of suspension.

13 If an initial license must be issued (Statement of Issues) or a license is reinstated, probation
14 shall not commence until a license is issued by the Board. Respondent must complete the
15 licensure process within two (2) years from the effective date of the Board's decision.

16 Should Respondent's license expire, by operation of law or otherwise, upon renewal or
17 reinstatement, Respondent's license shall be subject to any and all conditions of this probation not
18 previously satisfied.

19 12. **LICENSE SURRENDER.** During probation, if Respondent ceases practicing due to
20 retirement, health reasons, or is otherwise unable to satisfy the conditions of probation,
21 Respondent may surrender his license to the Board. The Board reserves the right to evaluate
22 Respondent's request and to exercise its discretion whether to grant the request without further
23 hearing. Upon formal acceptance of the tendered license, Respondent will no longer be subject to
24 the conditions of probation.

25 Surrender of Respondent's license shall be considered a disciplinary action and shall
26 become a part of Respondent's license history with the Board. A licensee who surrenders his
27 license may petition the Board for reinstatement no sooner than the following minimum periods
28 from the effective date of the disciplinary decision for the surrender:

1 Three (3) years for reinstatement of a license surrendered for any reason other than a mental
2 or physical illness; or One (1) year for a license surrendered for a mental or physical illness.

3 13. **VIOLATION OF PROBATION.** If Respondent violates the conditions of his
4 probation, the Board, after giving the respondent notice and an opportunity to be heard, may set
5 aside the stay order and impose the stayed discipline (denial/revocation/suspension) of the
6 respondent's license. If during probation, an accusation or petition to revoke probation has been
7 filed against the respondent's license or the Attorney General's Office has been requested to
8 prepare an accusation or petition to revoke probation against the respondent's license, the
9 probationary period shall automatically be extended and shall not expire until the accusation or
10 petition has been acted upon by the Board.

11 14. **CHEMICAL DEPENDENCY SUPPORT & RECOVERY GROUPS.** Within
12 five (5) days of the effective date of the Decision, Respondent shall begin attendance at a
13 chemical dependency support group (e.g. Alcoholics Anonymous, Narcotics Anonymous, Nurse
14 Support Group). Verified documentation of attendance shall be submitted by the respondent with
15 each written report as required by the Board. Respondent shall continue attendance in such a
16 group for the duration of probation.

17 15. **ABSTAIN FROM CONTROLLED SUBSTANCES.** Respondent shall completely
18 abstain from the personal use or possession of controlled substances, as defined in the California
19 Uniform Controlled Substances Act, and dangerous drugs as defined in Section 4021 and 4022 of
20 the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for
21 a bona fide illness.

22 16. **ABSTAIN FROM USE OF ALCOHOL.** Respondent shall completely abstain
23 from the use of alcoholic beverages and products containing alcohol.

24 17. **SUBMIT BIOLOGICAL FLUID SAMPLES.** Respondent shall immediately
25 submit to biological fluid testing, at Respondent's cost, upon request by the Board or its designee.
26 There will be no confidentiality in test results; positive test results will be immediately reported to
27 the Board and the respondent's current employer.
28

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Psychiatric Technician License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Vocational Nursing and Psychiatric Technicians.

DATED: 4/16/2010


KRIS JOSEPH MUNOZ
Applicant/Respondent


ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Vocational Nursing and Psychiatric Technicians of the Department of Consumer Affairs.

Dated: 4/28/10

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General


KENT D. HARRIS
Deputy Attorney General
Attorneys for Complainant

SA2009103234
Stipulation.rtf

Exhibit A

Statement of Issues No. PT-2008-1629

FILED

MAR 29 2010

Board of Vocational Nursing
and Psychiatric Technicians

1 EDMUND G. BROWN JR.
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 ARTHUR D. TAGGART
Supervising Deputy Attorney General
4 State Bar No. 083047
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5339
Facsimile: (916) 327-8643
7

Attorneys for Complainant

8
9
10 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13
14 In the Matter of the Statement of Issues
Against:

Case No. PT-2008-1629

15 **KRIS JOSEPH MUNOZ, aka**
16 **KRIS MUNOZ**
17 **1113 S. Pinkham Street**
Visalia, CA 93292

STATEMENT OF ISSUES

18 Applicant/Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Statement of
23 Issues solely in her official capacity as the Executive Officer of the Board of Vocational Nursing
24 and Psychiatric Technicians ("Board"), Department of Consumer Affairs.

25 **Application History**

26 2. On or about December 12, 2008, the Board received an Application for Psychiatric
27 Technician Licensure from Kris Joseph Munoz, also known as Kris Munoz ("Respondent"). On
28 or about October 29, 2008, Respondent certified under penalty of perjury to the truthfulness of all

1 statements, answers, and representations in the application. The Board denied the application on
2 November 2, 2009.

3 **JURISDICTION**

4 3. This Statement of Issues is brought before the Board, under the authority of the
5 following laws. All section references are to the Business and Professions Code ("Code"), unless
6 otherwise indicated.

7 4. Code section 4520 provides, in pertinent part, that the Board may discipline any
8 licensed psychiatric technician for any reason provided in Article 3 (commencing with section
9 4520) of the Psychiatric Technicians Law (Code § 4500, et. seq.)

10 5. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a
11 license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the
12 period within which the license may be renewed, restored, reissued or reinstated.

13 **STATUTORY PROVISIONS**

14 6. Code section 480 provides, in pertinent part:

15 (a) A board may deny a license regulated by this code on the grounds
16 that the applicant has one of the following:

17 (1) Been convicted of a crime. A conviction within the meaning of this
18 section means a plea or verdict of guilty or a conviction following a plea of
19 nolo contendere. Any action that a board is permitted to take following the
20 establishment of a conviction may be taken when the time for appeal has
elapsed, or the judgment of conviction has been affirmed on appeal, or when an
order granting probation is made suspending the imposition of sentence,
irrespective of a subsequent order under the provisions of Section 1203.4 of the
Penal Code.

21 (3)(A) Done any act that if done by a licentiate of the business or
22 profession in question, would be grounds for suspension or revocation of
license.

23 (3)(B) The board may deny a license pursuant to this subdivision only if
24 the crime or act is substantially related to the qualifications, functions, or duties
of the business or profession for which application is made.

25 (b) Notwithstanding any other provision of this code, no person shall be
26 denied a license solely on the basis that he or she has been convicted of a felony
27 if he or she has obtained a certificate of rehabilitation under Chapter 3.5
(commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or
28 that he or she has been convicted of a misdemeanor if he or she has met all
applicable requirements of the criteria of rehabilitation developed by the board

1 to evaluate the rehabilitation of a person when considering the denial of a
2 license under subdivision (a) of Section 482.

3 7. Code section 4521 states, in pertinent part:

4 The board may suspend or revoke a license issued under this chapter [the
5 Psychiatric Technicians Law] for any of the following reasons:

6 (a) Unprofessional conduct, which includes but is not limited to any of
7 the following:

8 (5) Use any controlled substance as defined in Division 10 (commencing
9 with Section 11000) of the Health and Safety Code, or any dangerous drug as
10 defined in Section 4022, or alcoholic beverages, to an extent or in a manner
11 dangerous or injurious to himself or herself, any other person, or the public or
12 to the extent that the use impairs his or her ability to conduct with safety to the
13 public the practice authorized by his or her license.

14 (6) Be convicted of a criminal offense involving the falsification of
15 records concerning prescription, possession, or consumption of any of the
16 substances described in paragraph (4) and (5), in which event the record of the
17 conviction is conclusive evidence of the conviction. The board may inquire
18 into the circumstances surrounding the commission of the crime in order to fix
19 the degree of discipline.

20 (f) Conviction of any offense substantially related to the qualifications,
21 functions, and duties of a psychiatric technician, in which event the record of
22 the conviction shall be conclusive evidence of the conviction. The board may
23 inquire into the circumstances surrounding the commission of the crime in
24 order to fix the degree of discipline.

25 **FIRST CAUSE FOR DENIAL OF LICENSURE**

26 **(Criminal Convictions)**

27 8. Respondent's application is subject to denial under Code sections 480, subdivisions
28 (a)(1) and (a)(3)(B), in that Respondent was convicted of crimes substantially related to the
qualifications, functions, or duties of a psychiatric technician, as follows:

a. On or about November 9, 2005, before the Superior Court of California, County of
Tulare, in the case entitled, *People of the State of California v. Kris Munoz* (Super. Ct. Tulare
County, 2005, Case No. TCM154586), Respondent was convicted on his plea of guilty of
violating Vehicle Code sections 23152, subdivision (b) (Drive a Vehicle with a .08% or Higher
Blood Alcohol Content with a Prior), a misdemeanor.

The circumstances of the crime are that on September 25, 2005, an Exeter Police Officer
initiated an enforcement stop as Respondent did not fully stop at a stop sign. Upon contact with
Respondent, the officer noticed a strong odor of alcohol emitting from the vehicle and

Respondent's eyes were watery. The officer conducted a search of Respondent's vehicle and located a cooler in the rear passenger side floorboard with one cold beer in it. The officer conducted the field sobriety tests and a Preliminary Alcohol Screening Test, which determined a .14% B.A.C.

b. On or about March 19, 2001, before the Superior Court of California, County of Tulare, in the case entitled, *People of the State of California v. Kris Joseph Munoz* (Super. Ct. Tulare County, 2001, Case No. CR-TR-01-0071559-1), Respondent was convicted on his plea of guilty of violating Vehicle Code section 23152, subdivision (a) (Drive While Under the Influence of an Alcoholic Beverage and/or Drug), a misdemeanor.

The circumstances of the crime are that on February 25, 2001, a Porterville Police Officer initiated an enforcement stop as Respondent was speeding and failed to stop at a stop sign. Upon contact with Respondent, the officer noticed a strong odor of alcohol emitting from the vehicle. The officer conducted the field sobriety tests and a CHP Officer conducted a Preliminary Alcohol Screening Test, which determined a .10% B.A.C.

SECOND CAUSE FOR DENIAL OF LICENSURE

(Done any Acts if Committed by a Licentiate)

9. Respondent's application is subject to denial under Code section 480, subdivision (3)(A), in that he committed acts that if done by a licentiate of the business or profession, would be grounds for suspension or revocation of a license, pursuant to Code section 4521, subdivisions (a)(5) and (a)(6), and (f), as set forth in paragraph 8, above.

///

///

///

///

///

///

///


///

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Denying the application of Kris Joseph Munoz for a psychiatric technician license; and;
2. Taking such other and further action as deemed necessary and proper.

DATED: March 29, 2010



TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

SA2009103234
10523228.doc